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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN KAY MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

2009 MAY 26 A 11: 35

ARIZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE FORMAL
COMPLAINT OF SPARTAN HOMES AND
CONSTRUCTION, INC.,

COMPLAINANT,

vs.

FAR WEST WATER AND SEWER, INC.,

RESPONDENT.

DOCKET NO. WS-03478A-08-0256

REQUEST FOR PROCEDURAL
CONFERENCE AND/OR
HEARING DATE

(Expedited Consideration
Requested)

On May 20 2008, Spartan Homes and Construction, Inc. ("Spartan Homes" or the "Company") filed with the Arizona Corporation Commission ("Commission") in the above-captioned docket a formal complaint ("Complaint") against Far West Water and Sewer, Inc. ("Far West" or the "Utility"). In a procedural order dated December 29, 2008, the Administrative Law Judge ("ALJ") set the Complaint for hearing beginning on February 9, 2009. However, prior to the hearing date Spartan Homes and Far West commenced settlement discussions which ultimately led to a negotiated document entitled Terms of Settlement that was finalized on February 5, 2009 ("Terms of Settlement"). Spartan Homes signed the Terms of Settlement on February 5, 2009, and forwarded the signed document to counsel for Far West for signature on February 5, 2009. The Terms of Settlement were to be formally memorialized in a settlement agreement to be signed subsequently by the parties.

Arizona Corporation Commission

DOCKETED

MAY 26 2009

DOCKETED BY

[Signature]

Snell & Wilmer

LLP
LAW OFFICES
One Arizona Center, 400 E. Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6000

1 Based upon the representation that Far West had agreed to and accepted the
2 Terms of Settlement which were executed by Spartan Homes, Spartan Homes
3 consented to the filing of a Joint Motion to Vacate Hearing Date and Suspend
4 Proceedings Pending Withdrawal of Complaint ("Joint Motion") on February 6, 2009,
5 the following day. In the Joint Motion, which was prepared by counsel for Far West,
6 the parties represented to the Commission the following:

7 Far West and Spartan Homes have agreed to final settlement terms, but
8 have not finalized the necessary documents. As a result, the parties request
9 that the Commission vacate the hearing currently scheduled for February 9,
10 2009, and suspend the proceedings pending Spartan Homes' withdrawal of
11 its complaint against Far West. The parties anticipate the settlement
documents will be finalized within 30 days of this motion, at which time
Spartan Homes will file a Notice of Withdrawal of Complaint.

12 Since Spartan Homes executed the Terms of Settlement, Far West has refused to
13 sign the document or to engage in further discussions regarding the document, leading
14 Spartan Homes to the unavoidable conclusion that Far West purposefully engaged in a
15 bad faith ruse to obtain the cancellation of the February 9 hearing date. Thus, Spartan
16 Homes hereby requests that the ALJ reset the hearing on the Complaint at the earliest
17 possible date, or alternatively, schedule a procedural conference to set a new hearing
18 date.

19 RESPECTFULLY submitted this 26th day of May, 2009.

20 SNELL & WILMER

21
22 By: 

23 Jeffrey W. Crockett, Esq.

24 Bradley S. Carroll, Esq.

25 400 East Van Buren

26 One Arizona Center

27 Phoenix, Arizona 85004-2202

28 Attorneys for Spartan Homes &
Construction, Inc.

1 ORIGINAL and thirteen (13) copies of the
2 foregoing filed with Docket Control
3 this 26th day of May, 2009.

4 COPY of the foregoing hand-delivered
5 this 26th day of May, 2009, to:

6 Belinda A. Martin, Administrative Law Judge
7 Hearing Division
8 ARIZONA CORPORATION COMMISSION
9 1200 West Washington Street
10 Phoenix, Arizona 85007

11 Ernest Johnson, Director
12 Utilities Division
13 ARIZONA CORPORATION COMMISSION
14 1200 West Washington Street
15 Phoenix, Arizona 85007

16 Janice Alward, Chief Counsel
17 Legal Division
18 ARIZONA CORPORATION COMMISSION
19 1200 West Washington Street
20 Phoenix, Arizona 85007

21 COPY of the foregoing mailed this
22 26th day of May, 2009, to:

23 Jay L. Shapiro, Esq.
24 Patrick J. Black, Esq.
25 FENNEMORE CRAIG, P.C.
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